



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/551,797	09/29/2005	Rajesh Jain	U 015961-3	4219
140 7590 02/14/2007 LADAS & PARRY 26 WEST 61ST STREET NEW YORK, NY 10023			EXAMINER MCCORMICK, MELENIE LEE	
			ART UNIT	PAPER NUMBER
			1655	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		02/14/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/551,797

Applicant(s)

JAIN ET AL.

Examiner

Melenie McCormick

Art Unit

1655

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-81 is/are pending in the application.
- 4a) Of the above claim(s) 1-67 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 68-81 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☒ Interview Summary (PTO-413)
Paper No(s)/Mail Date. 02/2006.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____.

DETAILED ACTION

Applicant's amendment with remarks filed on 11/21/2006 has been received and considered.

Applicants have cancelled claims 1-67 and added new claims 68-81.

Claims 68-81 are presented for examination on the merits.

Claim Objections

Claim 73 is objected to because of the following informality: the word "on" in line 2 appears to be misspelled. It is suggested that "on" be omitted and replaced with "of". Appropriate correction is required.

Claim 80 is objected to because of the following informality: the word "an" needs to be added directly after the word "of" in line 1 in order for the claim to read properly.

Claim Rejections - 35 USC § 101

Applicant's amendment and arguments are deemed persuasive and the rejection is withdrawn.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

New claims 68-81 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 73 recites the limitation "astringent" in line 1. There is insufficient antecedent basis for this limitation in the claim. Claim 72, from which this claim depends recited "astringents" in line 2. It is suggested that claim 72 be amended to also recite "astringents".

In addition, claims 74-77, which also depend from claim 72, recite "anesthetic", "protectant", "healing agent", and "kerolytic", respectively. In order to maintain proper dependency, it is suggested that each of these terms be amended to their respective plural form.

Claim 79 recites the limitation "the dry coarse powder" in step c. There is insufficient antecedent basis for this limitation in the claim. It is suggested that in claim 79, step b. be amended to recite a "coarse powder".

Claim 79 is considered vague and indefinite because it is not clear which portions of step f are optional. It is suggested that in order to better define the optional portions of step f in claim 79, that "and" be inserted after "organic solvent" in step f.

Claims 68-81 are deemed vague and indefinite due to the phrase "containing flavonoids and phenolic compounds" (see e.g. claim 68, lines 2-3) for the reasons set forth in the previous office action and restated below.

As previously stated, it is still not clear from the language of the claims, if the instantly recited "extract of the plant *Euphorbia prostata*" "containing flavonoids and phenolic compounds" (see e.g. claim 68, lines 2-3) naturally contains these flavonoids and phenolic compounds or if they are added to the extract.

Applicants argue that the cancellation of the old claims 1-67 and addition of new claims 68-81 renders the rejections under 35 USC 112 2nd paragraph moot, however, this is not deemed persuasive because the claim language has not been amended and the rejection has not been addressed.

All other claims depend directly or indirectly from rejected claims and are, therefore, also rejected under USC 112, second paragraph for the reasons set forth above.

Double Patenting

Applicant's arguments are deemed persuasive.

Claim Rejections - 35 USC § 103

Applicant's arguments are deemed persuasive.

It is suggested, that to better define the instantly claimed anorectal or colonic diseases or conditions as recited in claims 68 and 80, that the limitations of claims 69 be added to claim 68 and that the limitations of claim 81 be added to claim 80.

It is also suggested that in order to better define the medium polarity organic solvent recited in claim 79 at step f, that the claim be amended such that the medium polarity solvent is selected from the group consisting of those recited on page 14 of the instant specification.

Conclusion

No claim is allowed.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Art Unit: 1655

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melenie McCormick whose telephone number is (571) 272-8037. The examiner can normally be reached on M-F 7:30am-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terry McKelvey can be reached on (571) 272-0775. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



CHRISTOPHER R. TATE
PRIMARY EXAMINER